

AMENDED IN SENATE MARCH 28, 2003

AMENDED IN SENATE MARCH 20, 2003

SENATE BILL

No. 106

Introduced by Senator Alpert

January 30, 2003

An act to add Chapter 3.37 (commencing with Section 1596.69) to Division 2 of amend Section 1502 of, and to add Sections 1502.1 and 1522.06 to, the Health and Safety Code, relating to public social services, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 106, as amended, Alpert. Volunteers with *foster* children: criminal history information.

The California Community Care Facilities Act provides for the licensure and regulation by the State Department of Social Services of various types of facilities, including those providing foster care. A violation of these provisions is a misdemeanor.

The act requires, as a condition of licensure of, or employment, residence, or presence in, a community care facility the fingerprinting of, and criminal record clearance for, specified persons.

This bill would expand the definition of community care facility to include nonprofit organizations that provide adult volunteers to serve as mentors or sponsors for children in foster care.

The bill would also require the department to charge a fee to these entities for licensure and for fingerprinting and criminal record clearance checks required pursuant to the act.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state.

Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~Existing law authorizes a human resource agency who is placing volunteers who would have supervisory or disciplinary power over minors to conduct criminal history checks on those persons through the Department of Justice, and requires the Department of Justice to provide the information to the employer and applicant.~~

~~This bill would authorize specified nonprofit organizations to secure from the Department of Justice, with respect to adult volunteers who provide mentorship, sponsorship, or supervision to children in foster care or other children who need a consistent adult in their lives, criminal history information, subsequent arrest information, and information from the Child Abuse Central Index regarding reports of suspected child abuse or severe neglect.~~

~~The California Community Care Facilities Act requires, under specified circumstances, that the State Department of Social Services secure from the Department of Justice criminal record information on volunteers for specified foster care providers, and a clearance or exemption from disqualification.~~

~~This bill would provide that its provisions do not apply to the obtaining of criminal history checks, clearances, or exemptions from disqualification pursuant to the above existing law, except that the department may permit a criminal record clearance obtained by an organization described in this bill to be used by specified foster care providers in order to satisfy the criminal record clearance requirements for volunteers pursuant to existing law.~~

~~This bill would declare that it is to take effect immediately as an urgency statute.~~

~~Vote: ²/₃. Appropriation: no. Fiscal committee: yes. State-mandated local program: ~~no~~ yes.~~

The people of the State of California do enact as follows:

- 1 ~~SECTION 1. Chapter 3.37 (commencing with Section~~
- 2 ~~1596.69) is added to Division 2 of the Health and Safety Code, to~~
- 3 ~~read:~~
- 4

~~CHAPTER 3.37. — CRIMINAL HISTORY INFORMATION FOR PERSONS
WHO PROVIDE MENTORSHIP, SPONSORSHIP, OR SUPERVISION OF
CHILDREN THROUGH NONPROFIT CORPORATIONS~~

~~1596.69. —~~

SECTION 1. (a) The Legislature recognizes the need for nonprofit organizations exempt from taxation pursuant to Section 501(c)(3) of the federal Internal Revenue Code, that use the volunteer services of persons who mentor, ~~sponsor, or supervise children~~ *or sponsor children in foster care*, to obtain timely and accurate positive fingerprint identification, ~~and criminal history information, and information from the Child Abuse Central Index~~ on those persons.

(b) The Legislature finds and declares all of the following:

(1) There exists a need for many children in foster care, ~~and various other children~~, to have in their lives adults who can, as mentors, ~~sponsors, or supervisors~~ *or sponsors* of these children, be counted on to listen to them, support them, and guide them through enjoyable, age-appropriate experiences.

(2) Mentoring research has consistently shown that children with mentors have improved academic performance, improved family relationships, and reduced drug and alcohol usage.

(3) Mentoring research has also shown that the most critical factor in building resilience in children is the presence of a caring, supportive person in their lives.

(4) By providing caring adults and nurturing opportunities for children in foster care, the community is able to support the State Department of Social Services and the counties in their efforts to ensure the well-being of children under the care of these entities.

(5) Several nonprofit organizations now recruit volunteers to provide mentoring, ~~sponsorship, or supervision~~ *or sponsorship* to children in foster care, ~~or to children in need of a consistent adult in their lives.~~ *foster care*. However, current methods of performing criminal history searches on these volunteers are time consuming, unwieldy, and impractical. ~~In addition, the searches currently available under state law do not include a check of the reports of suspected child abuse and severe neglect that are maintained in the Child Abuse Central Index of the Department of Justice, and they do not include information on arrests subsequent to the initial criminal history check.~~ Therefore, it is possible for an organization

~~1 who is intending to help these children to unknowingly provide a~~
~~2 volunteer with reports of child abuse, or to maintain a volunteer~~
~~3 with arrests subsequent to the initial criminal history check~~
~~4 authorized under current law. Therefore, it is difficult for~~
~~5 organizations who match volunteer mentors with children in foster~~
~~6 care to recruit volunteers.~~

(6) It is essential that nonprofit organizations who match children in foster care and various other children with volunteers be authorized to conduct the checks, *and receive subsequent arrest information on those volunteers*, required to ensure that the volunteers they are providing these children are held to the highest standard.

~~(7) There is a need to provide nonprofit organizations that match adults with children an alternative means of obtaining criminal history information, subsequent criminal history information, and Child Abuse Central Index information, in a timely manner, on persons who volunteer to work with children in foster care and with other children who need a consistent adult in their lives.~~

~~(8) This need could be fulfilled if nonprofit organizations described in subdivision (a) that use the services of persons who mentor, sponsor, or supervise children, could get criminal history information, subsequent criminal history information, and Child Abuse Central Index information, on those persons directly from the Department of Justice.~~

(7) *The criminal history check process for volunteers working with children in foster care could be expedited if the nonprofit organizations supplying the volunteers could become licensed under the California Community Care Facilities Act in order to obtain criminal history information on volunteers.*

(c) Therefore, the Legislature ~~supports the direct use, by intends to enact legislation to authorize the State Department of Social Services to license under the California Community Care Facilities Act those nonprofit organizations described in subdivision (a) that obtain mentoring or sponsorship services for children in foster care. nonprofit organizations described in subdivision (a) that obtain mentoring, sponsorship, or supervision services for children described in subdivision (a), of the fingerprint live-scan technology, otherwise known as the California Crime Information Intelligence System (CAL-CII), of~~

1 the Department of Justice, for processing fingerprints and
2 obtaining criminal history information of persons who provide
3 mentoring, sponsorship, or supervision to children in foster care
4 and to other children in need of a consistent adult in their lives, and
5 also to obtain subsequent criminal history information from the
6 Central Child Abuse Index directly from the Department of
7 Justice.

8 1596.691. (a) A nonprofit organization exempt from
9 taxation pursuant to Section 501(c)(3) of the federal Internal
10 Revenue Code may secure from the Department of Justice
11 information from the Child Abuse Central Index pursuant to
12 Section 11170 of the Penal Code, and may also secure from the
13 Department of Justice criminal history information on a person,
14 who seeks to provide, or is providing, on a voluntary basis and
15 through that organization, mentoring, sponsorship, or supervision
16 of a child in foster care or any child in need of a consistent adult
17 in his or her life, in order to determine whether that person has ever
18 been convicted of a crime other than a minor traffic violation
19 punishable pursuant to subdivision (a) of Section 42001 of the
20 Vehicle Code, or has been arrested for any crime for which the
21 person is required to register as a sex offender pursuant to Section
22 290 of the Penal Code, or for violating Section 245 or 273.5 of the
23 Penal Code, or subdivision (b) of Section 273a of the Penal Code
24 or, prior to January 1, 1994, paragraph (2) of Section 273a of the
25 Penal Code.

26 (b) A nonprofit organization described in subdivision (a) that
27 is seeking the criminal history information pursuant to this section
28 shall submit directly to the Department of Justice two sets of
29 fingerprints, in a form consistent with the Department of Justice
30 live scan technology, of the person seeking to provide, or
31 providing, mentoring, sponsorship, or supervision for a child, for
32 the purpose of searching the criminal history information of the
33 Department of Justice and the Federal Bureau of Investigation, and
34 shall also submit directly to the Department of Justice the person's
35 name for the purpose of searching the Child Abuse Central Index
36 as described in subdivision (c) of Section 11170 of the Penal Code.

37 (c) The Department of Justice shall conduct the criminal
38 history search of its records and shall ensure that a criminal history
39 search is conducted by the Federal Bureau of Investigation using
40 the second set of fingerprints.

~~(d) The criminal history information shall include the full criminal record, if any, arrest information of the person who is providing, or is seeking to provide, mentoring, sponsorship, or supervision of a child, subsequent arrest information pursuant to Section 11105.3 of the Penal Code, and reports of suspected child abuse or severe neglect by the person that are maintained in the Child Abuse Central Index pursuant to Section 11170 of the Penal Code.~~

~~(e) (1) If new fingerprints are required for processing, the Department of Justice shall, within five calendar days from the date of receipt of the fingerprints, notify the nonprofit organization described in subdivision (a) that requested the information that the fingerprints are required.~~

~~(2) If no criminal history information has been recorded, the Department of Justice shall, within five calendar days of receipt of the fingerprints, provide the nonprofit organization described in subdivision (a) that requested the criminal history information and the department with a criminal history clearance for that person.~~

~~(3) If criminal history information specified in subdivision (a), including Child Abuse Central Index reports, has been recorded, the Department of Justice shall, within five calendar days from the date of receipt of the fingerprints, provide the information to the nonprofit organization described in subdivision (a) that requested it, and to the department.~~

~~(f) The Department of Justice shall charge the organization described in subdivision (a) that requested criminal history information the fee, if any, that the department charges nonprofit organizations for criminal history searches pursuant to Section 11105.3 of the Penal Code.~~

~~(g) (1) For purposes of this chapter, a conviction means a plea or verdict of guilty, a conviction following a plea of nolo contendere, or an adjudication of a minor pursuant to Section 602 of the Welfare and Institutions Code.~~

~~(2) For purposes of this chapter, the record of a conviction, or a copy thereof certified by the clerk of the court or by a judge of the court in which the conviction occurred, shall be conclusive evidence of the conviction. For purposes of this chapter, the arrest disposition report certified by the Department of Justice, or documents admissible in a criminal action pursuant to Section 969b of the Penal Code, shall be prima facie evidence of the~~

1 conviction, notwithstanding any other provision of law
2 prohibiting the admission of these documents in a civil or
3 administrative action.

4 (h) ~~If a nonprofit organization described in subdivision (a)~~
5 ~~denies the person the opportunity, or terminates the person's~~
6 ~~authorization, to provide mentoring, sponsorship, or supervision~~
7 ~~services to children through that organization, based on written~~
8 ~~notification from the Department of Justice that the person has a~~
9 ~~criminal conviction or arrest, or a report alleging suspected child~~
10 ~~abuse or severe neglect in the Child Abuse Central Index, the~~
11 ~~organization described in subdivision (a) shall not incur civil~~
12 ~~liability or liability of any kind as a result of that denial or~~
13 ~~termination.~~

14 (i) ~~This chapter does not apply to the obtaining of criminal~~
15 ~~history checks, clearances, or exemptions from disqualification~~
16 ~~pursuant to Section 1522, except that the department may permit~~
17 ~~a criminal record clearance obtained by a nonprofit organization~~
18 ~~described in subdivision (a) on a person pursuant to this section to~~
19 ~~be used by a community care facility, foster family home, or a~~
20 ~~certified family home of a licensed foster family agency in order~~
21 ~~to satisfy the criminal record clearance requirements for~~
22 ~~volunteers pursuant to subparagraph (D) of paragraph (1) of~~
23 ~~subdivision (b) of Section 1522.~~

24 SEC. 2.—

25 SEC. 2. *Section 1502 of the Health and Safety Code is*
26 *amended to read:*

27 1502. As used in this chapter:

28 (a) “Community care facility” means any facility, place, or
29 building that is maintained and operated to provide nonmedical
30 residential care, day treatment, adult day care, or foster family
31 agency services for children, adults, or children and adults,
32 including, but not limited to, the physically handicapped, mentally
33 impaired, incompetent persons, and abused or neglected children,
34 and includes the following:

35 (1) “Residential facility” means any family home, group care
36 facility, or similar facility determined by the director, for 24-hour
37 nonmedical care of persons in need of personal services,
38 supervision, or assistance essential for sustaining the activities of
39 daily living or for the protection of the individual.

1 (2) “Adult day program” means any community-based facility
2 or program that provides care to persons 18 years of age or older
3 in need of personal services, supervision, or assistance essential
4 for sustaining the activities of daily living or for the protection of
5 these individuals on less than a 24-hour basis.

6 (3) “Therapeutic day services facility” means any facility that
7 provides nonmedical care, counseling, educational or vocational
8 support, or social rehabilitation services on less than a 24-hour
9 basis to persons under 18 years of age who would otherwise be
10 placed in foster care or who are returning to families from foster
11 care. Program standards for these facilities shall be developed by
12 the department, pursuant to Section 1530, in consultation with
13 therapeutic day services and foster care providers.

14 (4) “Foster family agency” means any organization engaged
15 in the recruiting, certifying, and training of, and providing
16 professional support to, foster parents, or in finding homes or other
17 places for placement of children for temporary or permanent care
18 who require that level of care as an alternative to a group home.
19 Private foster family agencies shall be organized and operated on
20 a nonprofit basis.

21 (5) “Foster family home” means any residential facility
22 providing 24-hour care for six or fewer foster children that is
23 owned, leased, or rented and is the residence of the foster parent
24 or parents, including their family, in whose care the foster children
25 have been placed. The placement may be by a public or private
26 child placement agency or by a court order, or by voluntary
27 placement by a parent, parents, or guardian. It also means a foster
28 family home described in Section 1505.2.

29 (6) “Small family home” means any residential facility, in the
30 licensee’s family residence, that provides 24-hour care for six or
31 fewer foster children who have mental disorders or developmental
32 or physical disabilities and who require special care and
33 supervision as a result of their disabilities. A small family home
34 may accept children with special health care needs, pursuant to
35 subdivision (a) of Section 17710 of the Welfare and Institutions
36 Code. In addition to placing children with special health care
37 needs, the department may approve placement of children without
38 special health care needs, up to the licensed capacity.

39 (7) “Social rehabilitation facility” means any residential
40 facility that provides social rehabilitation services for no longer

1 than 18 months in a group setting to adults recovering from mental
2 illness who temporarily need assistance, guidance, or counseling.
3 Program components shall be subject to program standards
4 pursuant to Article 1 (commencing with Section 5670) of Chapter
5 2.5 of Part 2 of Division 5 of the Welfare and Institutions Code.

6 (8) “Community treatment facility” means any residential
7 facility that provides mental health treatment services to children
8 in a group setting and that has the capacity to provide secure
9 containment. Program components shall be subject to program
10 standards developed and enforced by the State Department of
11 Mental Health pursuant to Section 4094 of the Welfare and
12 Institutions Code.

13 Nothing in this section shall be construed to prohibit or
14 discourage placement of persons who have mental or physical
15 disabilities into any category of community care facility that meets
16 the needs of the individual placed, if the placement is consistent
17 with the licensing regulations of the department.

18 (9) “Full-service adoption agency” means any licensed entity
19 engaged in the business of providing adoption services, that does
20 all of the following:

21 (A) Assumes care, custody, and control of a child through
22 relinquishment of the child to the agency or involuntary
23 termination of parental rights to the child.

24 (B) Assesses the birth parents, prospective adoptive parents, or
25 child.

26 (C) Places children for adoption.

27 (D) Supervises adoptive placements.

28 Private full-service adoption agencies shall be organized and
29 operated on a nonprofit basis.

30 (10) “Noncustodial adoption agency” means any licensed
31 entity engaged in the business of providing adoption services, that
32 does all of the following:

33 (A) Assesses the prospective adoptive parents.

34 (B) Cooperatively matches children freed for adoption, who
35 are under the care, custody, and control of a licensed adoption
36 agency, for adoption, with assessed and approved adoptive
37 applicants.

38 (C) Cooperatively supervises adoptive placements with a
39 full-service adoptive agency, but does not disrupt a placement or
40 remove a child from a placement.

1 Private noncustodial adoption agencies shall be organized and
2 operated on a nonprofit basis.

3 (11) “Transitional shelter care facility” means any group care
4 facility that provides for 24-hour nonmedical care of persons in
5 need of personal services, supervision, or assistance essential for
6 sustaining the activities of daily living or for the protection of the
7 individual. Program components shall be subject to program
8 standards developed by the State Department of Social Services
9 pursuant to Section 1502.3.

10 (12) “Transitional housing placement facility” means a
11 community care facility licensed by the department pursuant to
12 Section 1559.110 to provide transitional housing opportunities to
13 persons at least 17 years of age, and not more than 18 years of age
14 unless the requirements of Section 11403 of the Welfare and
15 Institutions Code are met, who are in out-of-home placement
16 under the supervision of the county department of social services
17 or the county probation department, and who are participating in
18 an independent living program.

19 (13) *“Nonprofit organization that provides mentors or*
20 *sponsors for children in foster care” means a nonprofit*
21 *organization exempt from taxation pursuant to Section 501(c)(3)*
22 *of the federal Internal Revenue Code that provides adult*
23 *volunteers to serve as mentors or sponsors for children in foster*
24 *care. These organizations include, but are not limited to, the*
25 *California Youth Connection.*

26 (b) “Department” or “state department” means the State
27 Department of Social Services.

28 (c) “Director” means the Director of Social Services.

29 SEC. 3. Section 1502.1 is added to the Health and Safety
30 Code, to read:

31 1502.1. *The department shall charge a licensure and renewal*
32 *fee to applicants or licensees under paragraph (13) of subdivision*
33 *(a) of Section 1502 that shall not exceed the cost of administering*
34 *this licensure category.*

35 SEC. 4. Section 1522.06 is added to the Health and Safety
36 Code, to read:

37 1522.06. *Notwithstanding any other provision of law, the*
38 *department shall charge an entity described in paragraph (13) of*
39 *subdivision (a) of Section 1502 a fee that may not exceed the cost*
40 *of any fingerprinting or criminal history check that is required*

1 pursuant to Section 1522 for that entity, and or employee or
2 volunteer or prospective employee or volunteer thereof.

3 SEC. 5. No reimbursement is required by this act pursuant to
4 Section 6 of Article XIII B of the California Constitution because
5 the only costs that may be incurred by a local agency or school
6 district will be incurred because this act creates a new crime or
7 infraction, eliminates a crime or infraction, or changes the penalty
8 for a crime or infraction, within the meaning of Section 17556 of
9 the Government Code, or changes the definition of a crime within
10 the meaning of Section 6 of Article XIII B of the California
11 Constitution.

12 SEC. 6. This act is an urgency statute necessary for the
13 immediate preservation of the public peace, health, or safety
14 within the meaning of Article IV of the Constitution and shall go
15 into immediate effect. The facts constituting the necessity are:

16 ~~In order to ensure that, at the earliest possible time, In order to~~
17 ~~provide, at the earliest possible time, for the licensure and~~
18 ~~regulation, as community care facilities, of nonprofit~~
19 organizations that are exempt from taxation pursuant to Section
20 501(c)(3) of the federal Internal Revenue Code and that use the
21 services of persons who provide mentoring, ~~sponsorship, or~~
22 ~~supervision to children can obtain criminal history information;~~
23 ~~subsequent criminal history information, and information from~~
24 ~~the Child Abuse Central Index, or sponsorship to children in foster~~
25 care, it is necessary that this act take effect immediately.

